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13 RAMESH "SUNNY" BALWANI

14 UNITED STATES DISTRICT COURT  
15 NORTHERN DISTRICT OF CALIFORNIA  
16 SAN JOSE DIVISION

17 UNITED STATES OF AMERICA,  
18  
19 Plaintiff,  
20  
21 v.  
22  
23 RAMESH "SUNNY" BALWANI,  
24  
25 Defendant.

Case No. CR-18-00258-EJD

**DEFENDANT RAMESH "SUNNY"  
BALWANI'S REPLY IN SUPPORT OF  
MOTION TO CONTINUE  
SENTENCING**

***REDACTED FOR PUBLIC FILING***

**Date: November 7, 2022  
Time: 1:30 p.m.  
CTRM.: 4, 5th Floor**

**Hon. Edward J. Davila**

**I. INTRODUCTION**

Mr. Balwani has shown good cause to continue his sentencing hearing to January 23, 2023. The government gives short shrift to the effects of [REDACTED] and the need to adequately prepare [REDACTED] for the most important day of Mr. Balwani's life. The government faces no prejudice from the requested continuance, which would lead to a sentencing date for Mr. Balwani closer in time to his jury's verdict than Ms. Holmes' sentencing will be to her own. The Court should thus grant Mr. Balwani's motion.

**II. ARGUMENT**

*First*, the Court should give no weight to the government's cold indifference to Mr. Balwani's [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED] Courts considering sentences engage in the holistic analysis demanded by 18 U.S.C. § 3553(a), weighing the facts of a defendant's life and the circumstances surrounding the conduct found by the jury. In confronting that assessment, Mr. Balwani has the right to face the Court [REDACTED]

*Second*, the government identifies no prejudice it would face from a continuance. To start, that the parties have lodged their objections to the draft PSR and that the Probation Office's analysis nears completion merely cements that neither the parties nor Probation will incur any disadvantage or difficulty from a modest sentencing delay. Reciting this case's procedural history

1 similarly falls flat: Mr. Balwani did not cause the COVID-19 pandemic or its resulting delays,  
 2 much less did he raise the defense that required the defendants' trials to be severed. And the  
 3 government's opposition at once conflates Mr. Balwani and Ms. Holmes and fails to distinguish  
 4 their circumstances. *See, e.g.,* Opp'n at 1 ("More than ten months have passed since the jury  
 5 returned its guilty verdicts against Holmes."). On that score, the government's appeals to the  
 6 public interest ring especially hollow: Mr. Balwani's requested continuance, if granted, will lead  
 7 to a sentencing hearing far closer in time to his jury's verdict than is the case for Ms. Holmes.<sup>1</sup>  
 8 Mr. Balwani's case is neither less complex nor less important than Ms. Holmes', and the  
 9 government will not be burdened by a schedule that allows defense counsel to address the  
 10 important legal and equitable issues that should inform any sentence.

11 ***Third***, the government's insensitive response to the scheduling conflicts facing  
 12 Mr. Balwani's family lacks merit. The potential loss of liberty that sentencing entails is among  
 13 the weightiest issues that courts address. The stakes are even higher for the defendant confronting  
 14 such a proceeding. Mr. Balwani should have the real-time, in-person support from his family that  
 15 justice demands. The physical presence of supportive family also highlights for the Court the  
 16 truth about who Mr. Balwani is, which Congress has mandated the Court to consider when  
 17 passing sentence. *See* 18 U.S.C. § 3553(a)(1) (requiring courts to consider "the history and  
 18 circumstances of the defendant" when imposing a sentence).

### 19 **III. CONCLUSION**

20 For these reasons and those discussed in his motion, Mr. Balwani asks the Court to grant  
 21 the motion to continue.

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 27 <sup>1</sup> Under the Local Rules, a sentencing hearing for an out-of-custody defendant may be set *no*  
 28 *earlier* than 95 days after the defendant is referred to the Probation Office. *See* Criminal Local  
 Rule 31-1.

1 DATED: October 31, 2022

Respectfully submitted,

2 ORRICK HERRINGTON & SUTCLIFFE LLP

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4 By: /s/ Jeffrey B. Coopersmith  
Jeffrey B. Coopersmith

5 Attorney for Defendant  
6 RAMESH “SUNNY” BALWANI  
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